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SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1980

No. 79-5602

FEODOR FEDORENKO, Petitioner

V.

UNITED STATES OF AMERICA, Respondent

OBJECTION OF FEODOR FEDORENKO, PETITIONER, TO MOTION OF THE AMERICAN JEWISH CONGRESS, ON BEHALF OF ITSELF, AND THE NATIONAL JEWISH COMMUNITY RELATIONS ADVISORY COUNCIL, FOR LEAVE TO FILE BRIEF AMICUS CURIAE

Petitioner objects to the above captioned Motion on the following grounds:

1. The American Jewish Congress sought permission for filing of its Amicus Curiae Brief by mailing an undated letter to Petitioner's co-counsel, Gregg Pomeroy, a resident of Florida. This does not constitute a sufficient request for permission under Rule 36 (formerly Rule 42), as Petitioner's co-counsel, Brian M. Gildea, of New Haven, Connecticut, never received said request directly from the American Jewish Congress. In addition, such request does not state an adequate reason for consent.

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2. The request for filing of an Amicus Curiae Brief by the American Jewish Congress, which was sent to Mr. Pomeroy, did not contain a request for permission to include the name of the National Jewish Community Relations Advisory Council. However, when said Motion and Amicus Curiae Brief were filed by the American Jewish Congress, said National Jewish Community Relations Advisory Council was included on the Motion. Permission to include the National Jewish Community Relations Advisory Council was, therefore, never requested, pursuant to the provisions of Rule 36 (formerly Rule 42).

3. All facts and qu-stions relevant to the fundamental issues of this action have been adequately presented to the Court by the parties.

4. The interest of the American Jewish Congress and the National Jewish Community Relations Advisory Council, as disclosed in the Motion, is no more than a remote interest in the issues actually involved in this litigation.

5. The issues which the American Jewish Congress and the National Jewish Community Relations Advisory Council seek to discuss in the Amicus Curiae Brief are, at most, issues collateral to the issues actually involved in this proceeding.

6. The Motion and Amicus Curiae Brief submitted by the American Jewish Congress, on behalf of itself, and the National Jewish Community Relations Advisory Council contain sensitive and superfluous facts which are designed to affect and inflame the reader on issues which are not before this Court.

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In their Motion for Leave to File Amicus Curiae Brief, the American Jewish Congress states on page ii: "..."In the years following World War I, as Jews across the European Continent found themselves once again the hapless victims of national frustrations ard as virulent anti-Semitism, notably in the form of Nazism, ...".

The words contained in the above-quoted passage are designed to purposely upset the reader. This places an additional, unnecessary, and unfair burden on this Court in a case which has already been frought with emotion from its inception.

A rendition of modern history, and the tragedies which have befallen certain of its participants, is superfluous, and serves no purpose in the case before this Court. A multitude of such facts and witnesses thereto were presented at the loser Court trial in which the District Court for the Southern District of Florida found for the Petitioner. Such facts, therefore, having already been presented in the District Court, are redundant, and have no standing before this Court. Furthermore, such facts do not form the basis for this appeal.

So that the Court will understand that Petitioner is not seeking to eliminate from these proceedings an Amicus Curiae Brief, which would be an unbiased discussion of the applicable law involved in this case, the following paragraphs, contained on pages 17 and 18 of the Amicus Curiae Brief, are respectfully reprinted herein.

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"Murder was reduced to a science at Treblinka. The victims arrived in cattle cars, chiefly from the Polish ghettos, but from other countries in occupied Europe as well. Drive from the cars, the men were separated from the women and children; all were forced to undress and hand over their valuables. The victims were then driven either to the lazaret or to the gas chambers, which were disguised as shower rooms. 455 F. Supp. at 901 n. 12. Urged on by comments such as "the water is getting cold," the victims entered a narrow path variously known as the "tube,", "Ascension Boulevard," (Himmelfahrtsallee) or "the road without return," id.; ENCYCLOPEDIA JUDAICA, supra.

> With hands raised above their heads, the victims were driven with canes and whips through the "tube" and into the gas chambers; the capacity of the chambers was utilized to the fullest. After the doors were closed, the order to start the motor was given by calling "Ivan, water!" - Ukrainians ran the motor. The gassing took 30 to 40 minutes, then the doors were opened and the removal of the bodies began.[8]"

Such language is not relevant to the issues before this Court, and does not present an Amicus Curiae, as that term is generally intended. The Petitioner's and Respondent's sole purpose in this action is to have the Court rule upon questions relative to the denaturalization of an American citizen, not to review facts pertaining to atrocities committed by a sick society during the dark days of World War II.

"8. Ino Arndt and Wolfgand Scheffler, "Organisierter Massenmord an Juden in nationalsozialistichen Vernichtung-slagern," in Vierteljahrshefte fur Zeitgeschichte 24, 277-78 (1976); ENCYCLOPEDIA JUDAICA, supra, at 1368-69."

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CONCLUSION

For the foregoing reasons, it is respectfully submitted that the Motion of the American Jewish Congress, on behalf of itself, and the National Jewish Community Relations Advisory Council, for Leave to File an Amicus Curiae Brief should be denied.

RESPECTFULLY SUBMITTED,

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CERTIFICATION

This is to certify that the original and twelve copies of the foregoing Objection were mailed, postage prepaid, this 13th day of August, 1980 to Michael J. Rodak, Jr., Clerk of the United States Supreme Court, Washington, D. C. 20025.

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